



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

Paper No.

PATTI, HEWITT & AREZINA LLC  
ONE NORTH LASALLE STREET  
44TH FLOOR  
CHICAGO IL 60602

**MAILED**

MAR 16 2009

In re Application of :  
Magyar et al. :  
Application No. 10/667,257 : ON PETITION  
Filed: September 19, 2003 :  
Atty Docket No. 920047-94539 :

**OFFICE OF PETITIONS**

This is in response to the "PETITION TO WITHDRAW THE HOLDING OF AN ABANDONMENT" filed August 26, 2008 (and resubmitted September 10, 2008).

The above-identified application became abandoned for failure to pay the Issue Fee and Publication Fee within three months of the mailing date, April 3, 2008, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. The issue fee and publication fee were received but determined to not be sufficient. No further payment received, the above-identified application became abandoned effective July 4, 2008. A courtesy Notice of Abandonment was mailed on August 1, 2008.

In response, applicant promptly filed the instant petition. Applicant acknowledges that the Issue Fee Transmittal, submitting the issue fee and publication fee, inadvertently checked "Box 4b, which states Applicant is no longer claiming SMALL ENTITY status." Moreover, the Credit Card form mailed along with the Issue Fee Transmittal incorrectly stated the amount of "1,700.00." Applicant states that the correct amount should have been \$1,020.00.

Applicant's arguments have been considered, but not found persuasive to withdraw the holding of abandonment. At the time of payment of the issue fee, applicant is required to make a determination of continued entitlement to small entity status. By checking "Box 4b", applicant asserted a loss of entitlement to small entity status. As such, the payment of the issue fee and publication fee in less than the amount for a large entity was determined to be insufficient. Consequently, the application was properly deemed abandoned. Under these circumstances, withdrawal of the holding of abandonment is not warranted.

The petition under § 1.181 is **DISMISSED**.

Any request for reconsideration must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are not permitted. See 1.181(f).

Alternatively, applicant may seek revival under the provisions of 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
  - (2) The petition fee as set forth in § 1.17(m);
  - (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and
  - (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

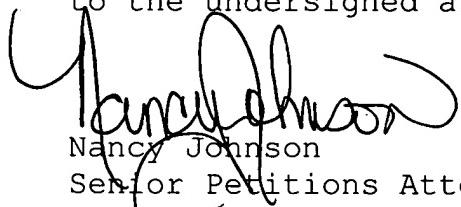
Further correspondence with respect to this decision should be addressed as follows:

By mail: Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

By fax: (571) 273-8300 .  
ATTN: Office of Petitions

By hand: Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Telephone inquiries concerning this decision should be directed  
to the undersigned at (571) 272-3219.



Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions